

Manuel de la Cerra (SBN 189313)
THE LAW OFFICE OF
MANUEL DE LA CERRA
6885 Catamaran Drive
Carlsbad, CA 92011
Telephone: 760-809-5520
Facsimile: 760-269-3542
E-mail: manny@delacerrallaw.com

Attorney for Plaintiff
TOESOX, INC.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

TOESOX, INC., a California Corporation,
Plaintiff,

v.

BODY UP FITNESS, LLC, a Florida Limited
Liability Company,

Defendant.

**COMPLAINT FOR PATENT
INFRINGEMENT OF
U.S. PAT. 7,346,935**

'11 CV2437 JAH NLS

The BODY UP FITNESS, LLC manufactures, sells, offers for sales, imports and uses a five-toed socks labeled "toe socks" and "toeless socks" under the brand "BODY UP" (hereinafter "the BODY UP socks"). The BODY UP socks infringe several claims of U.S. Patent No. 7,346,935, the currently exclusively assignee of which is Plaintiff TOESOX, INC. Accordingly, Plaintiff alleges and complains of Defendant BODY UP FITNESS, LLC as follows:

PARTIES

1. Plaintiff TOESOX, INC is a corporation organized and existing under the laws of the State of California and has a principal place of business in Vista California.

2. Defendant BODY UP FITNESS, LLC ("BODY UP") is a limited liability company organized and existing under the laws of the State of Florida and has a principal place of business listed on its website at 12240 SW 128 Ct. Unit 110, Miami, FL 33186 and a principal place of business listed on the Florida Secretary of State records at 9567 SW 67 Court, Miami FL 33156. The designated agent for service of process for BODY UP is Luciana Almeida, 9567

1 SW 67 Court, Miami FL 33156. BODY UP contracts with several retail stores to promote and
2 sell its products throughout the United States, including according to its website “fitness centers
3 and fashion malls at: Los Angeles, CA, San Francisco, CA, San Diego, CA.”

4
5 **JURISDICTION AND VENUE**

6 3. This Court has personal jurisdiction over Defendant BODY UP under Fed. R. Civ.
7 P. 4(k)(1)(A) and California’s long-arm statute, Cal. Civ. Proc. Code § 410.10, as Defendant has
8 continuous business contacts with the State of California, has a business presence in the state of
9 California and has committed the complained-of acts in California, thereby causing damage to
10 Plaintiff in this judicial district.

11 4. This Court has subject matter jurisdiction pursuant to the patent laws of the United
12 States, 35 U.S.C. §§ 1 et seq., and pursuant to 28 U.S.C. § 1331 and 28 U.S.C. §1338(a).

13 5. Venue is proper in this district under 28 U.S.C. § 1400 because BODY UP has
14 committed acts of infringement and has a regular and established place of business in this district.

15
16 **BACKGROUND FACTS**

17 6. On March 25, 2008, United States Patent No. 7,346,935 entitled “Stretchable High
18 Friction Socks” (“the ‘935 patent”) was duly and legally issued to Joe Patterson. A true copy of
19 the ‘935 patent is attached hereto as Exhibit A.

20 7. TOESOX is the owner by assignment of the ‘935 patent with full and exclusive
21 right to bring suit to enforce this patent.

22 8. The ‘935 patent relates generally to foot apparel, including a woven sock having a
23 multitude of high friction buttons arrayed around the bottom thereof.

24 9. BODY UP has been and is infringing, contributing to infringement, and/or inducing
25 others to infringe the ‘935 patent by making, using, offering for sale, selling and/or importing the
26 BODY UP socks. Defendant’s acts of infringement have occurred within this district and
27 elsewhere throughout the United States.

28 10. BODY UP has willfully infringed the ‘935 patent by continuing its acts of

1 infringement after being on notice of these patents.

2 **COUNT 1: PATENT INFRINGEMENT**

3 11. TOESOX hereby realleges and incorporates by this reference paragraphs 1
4 through 12 above as though fully set forth herein.

5 12. In violation of 35 U.S.C. § 271, BODY UP has infringed and is continuing to
6 infringe, literally and/or under the doctrine of equivalents, the '935 patent by practicing one or
7 more claims of the '935 patent in its manufacture, use, offering for sale, sale and importation of
8 the BODY UP socks.

9 13. TOESOX has been damaged by BODY UP's infringement and, unless BODY UP
10 is enjoined BODY UP will continue their infringing activity and TOESOX will continue to be
11 damaged.

12 14. WHEREFORE, Plaintiff TOESOX prays for the following relief against BODY
13 UP:

- 14 • a preliminary and permanent injunction against BODY UP, its officers, agents,
15 servants, employees, attorneys, all parent and subsidiary corporations, all
16 assignees and successors in interest, and those persons in active concert or
17 participation with BODY UP, enjoining it from continuing acts of
18 infringement of the '935 Patent;
- 19 • an award of damages under 35 U.S.C. § 284 for BODY UP's infringement of
20 the '935 Patent, together with pre-judgment and post-judgment interest;
- 21 • a trebling of said damages pursuant to 35 U.S.C. § 284;
- 22 • an award of attorney's fees pursuant to 35 U.S.C. § 285; and
- 23 • any such other relief that this Court deems just and proper.

24 DATED: October 19, 2011

Respectfully submitted,

25 THE LAW OFFICE OF
26 Manuel de la Cerra

27 By: 

28 Manuel de la Cerra
Attorney for Plaintiff
TOESOX, INC. a California Corporation.

DEMAND FOR JURY TRIAL

Plaintiff respectfully demands a trial by jury on all issues so triable.

DATED: October 19, 2011

Respectfully submitted,

THE LAW OFFICE OF
MANUEL DE LA CERRA

By: 

Manuel de la Cerra
Attorney for Plaintiff
TOESOX, INC. a California Corporation.

EXHIBIT A

US007346935B1

(12) **United States Patent
Patterson**(10) **Patent No.:** **US 7,346,935 B1**
(45) **Date of Patent:** **Mar. 25, 2008**(54) **STRETCHABLE HIGH FRICTION SOCKS**(75) Inventor: **Joe Patterson**, San Pedro, CA (US)(73) Assignee: **ToeSox, Inc.**, Carlsbad, CA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **11/179,068**(22) Filed: **Jul. 12, 2005**(51) **Int. Cl.**
A43B 17/00 (2006.01)(52) **U.S. Cl.** **2/239**(58) **Field of Classification Search** **2/239–242,**
2/409, 22; 66/185, 183, 178 R
See application file for complete search history.(56) **References Cited****U.S. PATENT DOCUMENTS**

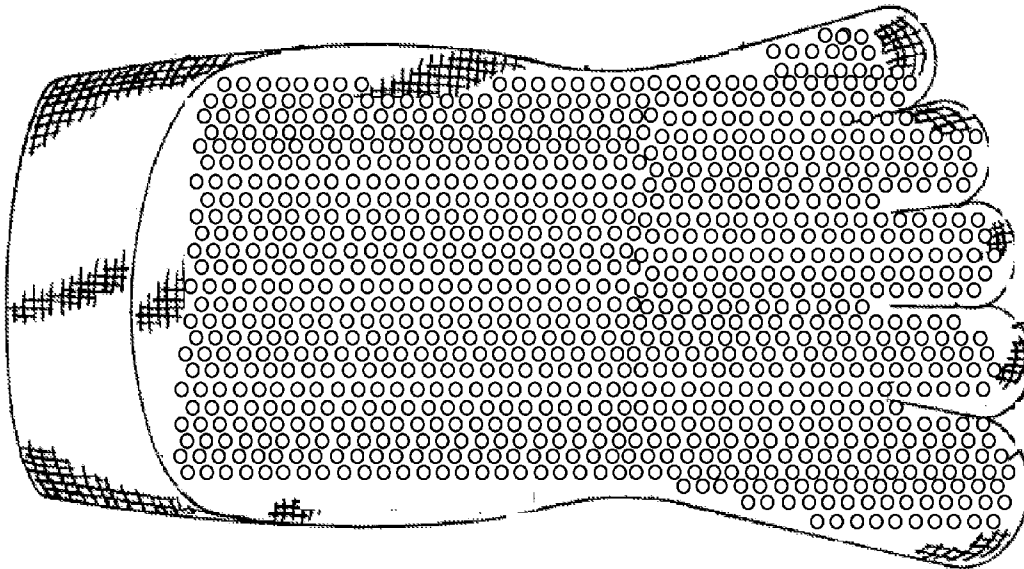
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2006/0026740 A1 *	2/2006	Vargas et al.	2/239

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Primary Examiner—Alissa Hoey(74) *Attorney, Agent, or Firm*—Manuel F. de la Cerra(57) **ABSTRACT**

A woven sock body having a multitude of high friction dots defining friction buttons arrayed around the bottom thereof.

8 Claims, 3 Drawing Sheets

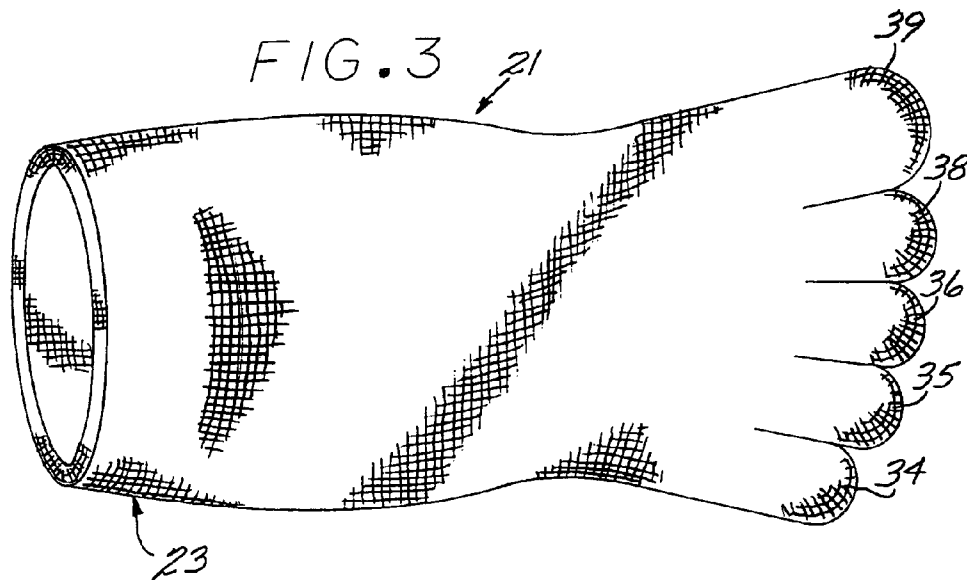
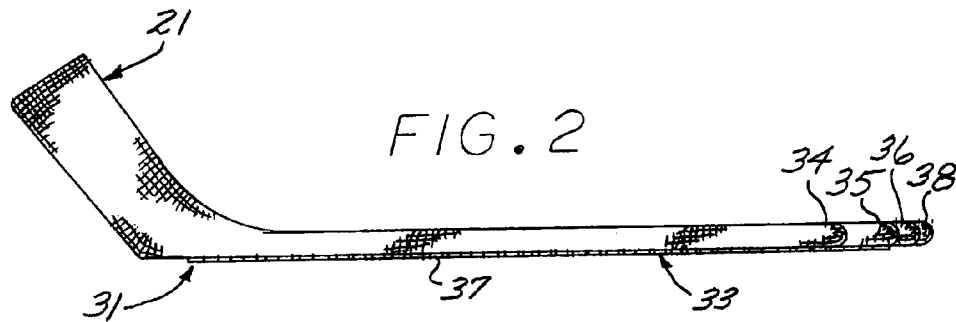
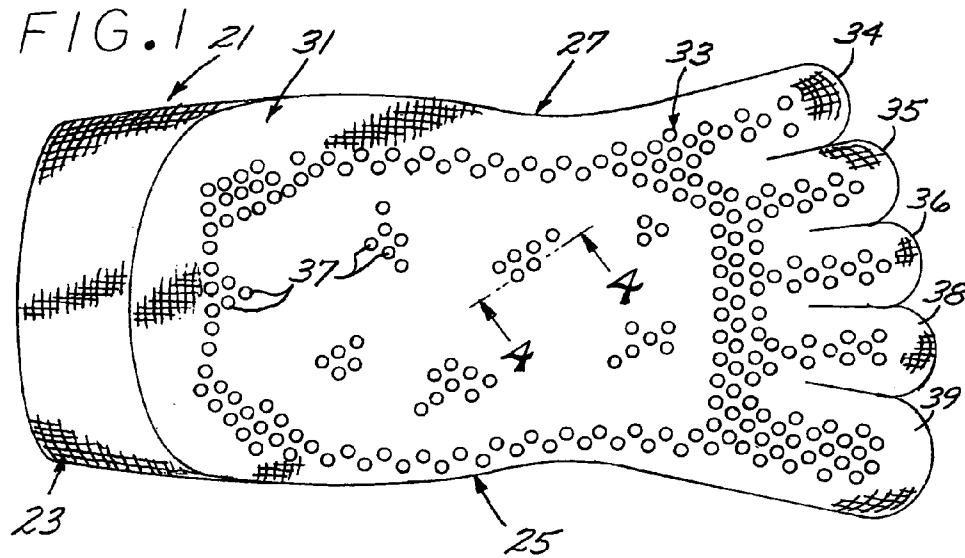


FIG. 4

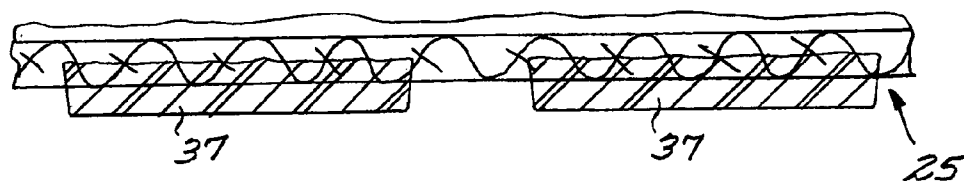


FIG. 5

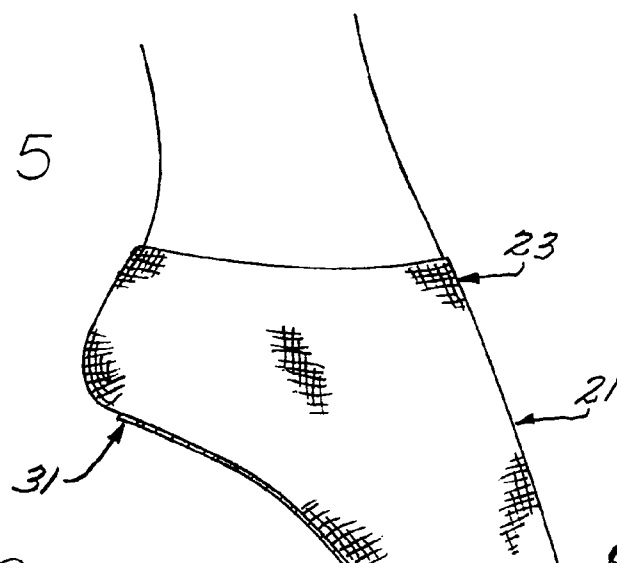


FIG. 6

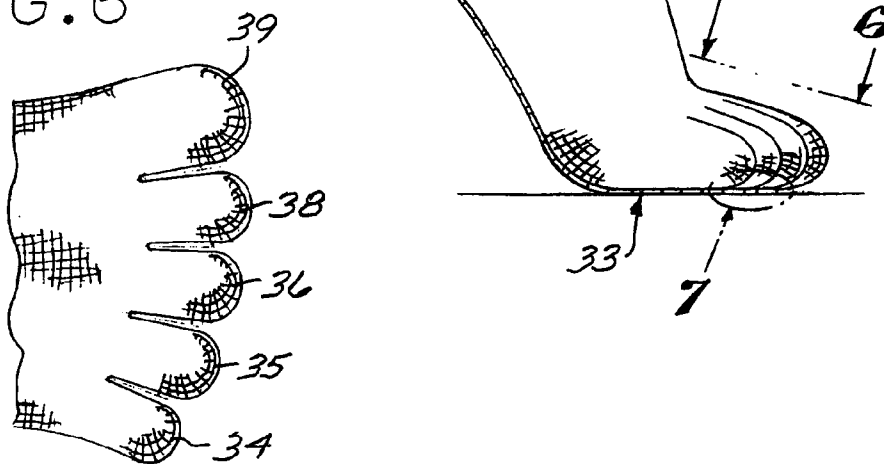
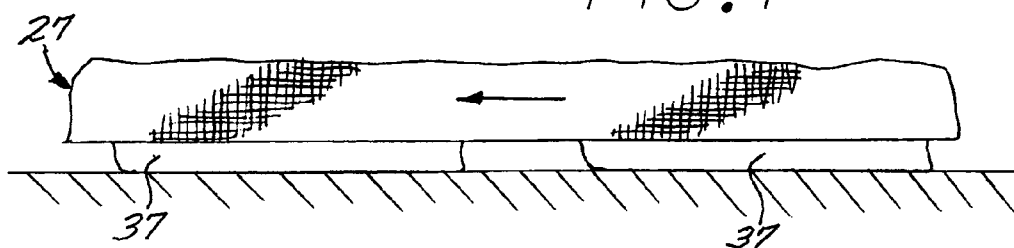


FIG. 7



U.S. Patent

Mar. 25, 2008

Sheet 3 of 3

US 7,346,935 B1

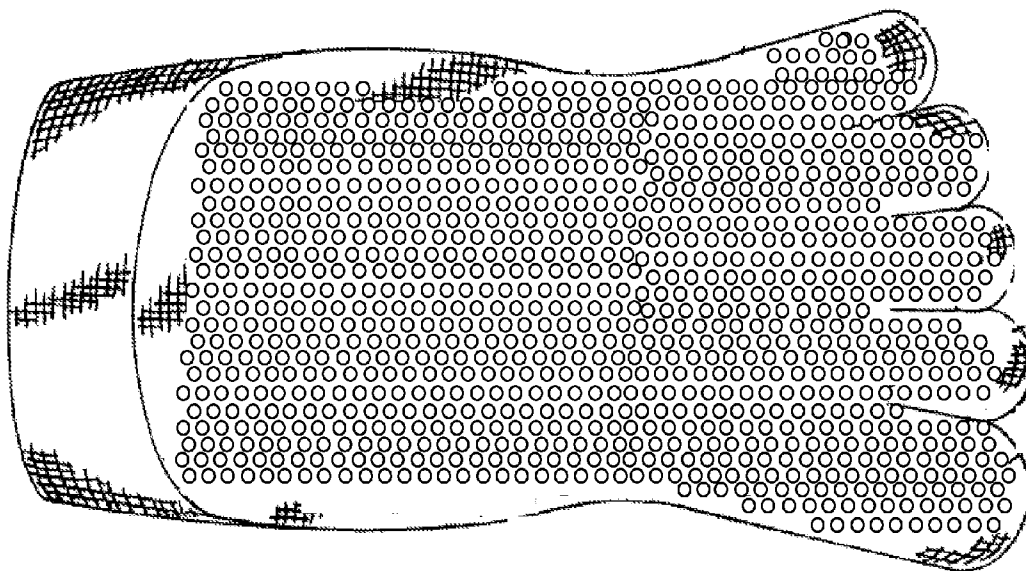


FIGURE 8

US 7,346,935 B1

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STRETCHABLE HIGH FRICTION SOCKS**CROSS-REFERENCES TO RELATED APPLICATIONS**

Text

FIELD OF THE INVENTION

The present invention relates generally to socks and particularly to low profile active wear socks that can be worn for various exercises and disciplines and particularly pilates, yoga, karate, gymnastics and other floor sports.

BACKGROUND OF THE INVENTION**Description of the Prior Art**

Various slippers and footwear have been proposed for use in active routines involving quick precise movement on a floor surface. Early work led to the proposal of stockings formed with tubes for receipt of a wearer's toes so that the toes could be articulated in use. A stocking of this type is shown in U.S. Pat. No. 1,308,483 to Craighead.

Other efforts have led to the proposal of socks of various configurations to address issues of perspiration. One such dry sock system is shown in U.S. Pat. No. 6,016,575 to Prychak. This sock is constructed with an upper portion fabricated from an elastomeric material and a lower portion constructed from an absorbent material and including toe sections. Socks of this type are satisfactory for their intended purpose but suffer the shortcoming that participants involved in active floor sports wearing such socks would not typically enjoy feeling of firm and reliable gripping with the underlying floor.

Various footwear has been proposed to enhance the performance of, for instance, track and field participants. In this regard, it has been proposed to construct a form fitting foot and toe cover from a stretchable fabric and to apply a rubber like material by a spatula to the entire bottom of the covering or to specific selected areas to act as spikes as by a hot melt glue. A device of this type is shown in U.S. Pat. No. 4,651,354 to Petrey. Petrey purposes that the rubberized material be built up to form a spike shape for better grip of the track or playing field. While satisfactory for track or field sports, such coverings have the shortcoming that the rubberized pads or spikes do not typically provide for firm gripping with a floor surface and, for instance, pilates. Furthermore, full sole coverings or spike-like patches do not lend to use or comfortable low profile relatively thin woven sock material and would likely be subject to cracking as the material was flexed in use.

The need for anti-skid gloves and footwear in high disciplined yoga exercises has long been recognized. In this regard, it has been proposed to provide footwear constructed of leather and covered in certain areas by a rubber material. Device of this type are shown in U.S. Pat. No. 6,766,536 to Aarons. While providing some support against slippage, devices of this type suffer the shortcoming that the footwear does not provide for a high degree of flexing and identical toe tubes and fails to afford the tactility simulating the feel of bare foot exercises.

Other efforts to provide gloves and socks for yoga activity has led to a proposal that a sock be formed with a separate big toe tube, the remaining toes being housed together at the end of the sock and a low coefficient of friction material be added. A device of this type is shown in Publication No.

2

2005/0091729 published May 5, 2005 to Alley. Such socks suffer a number of shortcomings including the fact that for pilate applications it is important that the five toes of the foot be allowed to spread apart during the athletic maneuvers involved and that all five toes have a high coefficient grip with the underlying floor surface.

Other athletic socks have been proposed which include separate toe compartments and are designed particularly for athletic activity. Such a sock is shown in U.S. Pat. No. 6,708,348 to Romay. Socks of this type suffer the shortcoming that, in addition to being relatively expensive to manufacture, they have a relatively slippery sole surface which discourages use in direct contact with floor exercises.

SUMMARY OF THE INVENTION

The gripping sock of the present invention is characterized by a woven low profile sock configured with a sole area having small dots in the form of high friction buttons arrayed about the bottom thereof to, in practice, maintain frictional contact with the underlying support surface during the active maneuvers in a floor exercises.

There has been outlined rather broadly the more important features of the invention in order that the detailed description thereof that follows may be better understood and in order that the present contribution to the art may be better appreciated. There are, of course, additional features of the invention that will be described herein and which will form the subject matter of the claims appended hereto.

In this respect, before explaining my preferred of the invention in detail, it is to be understood is not limited in its application to the details of construction and to the arrangements of the components set forth in the following description or illustrated in the drawings. The invention is capable of other embodiments and of being practiced and carried in various ways. Also, it is to be understood that the phraseology and terminology employed herein are for the purposes of descriptions and should not be regarded as limiting.

As such, those skilled in the art will appreciate the conception, upon which this disclosure is based, may readily be utilized as a basis for the designing of other structures, methods and systems for carrying out the several purposes of the present invention. It is important, therefore, that the claims be regarded as including such equivalent constructions in so far as they do not depart from the spirit of the present invention.

The sock will be form fitting and actually present a feeling not unlike a second skin. The toes are separated in practice to enhance the balance, flexibility, performance and minimize perspiration. In those embodiments where the sock is constructed of cotton, a natural fiber that breathes that, it serves to reduce moisture and friction between the toes, provides precise control and can eliminate blistering during workouts.

Other features and advantages of the invention will become apparent from the following detailed description, taken in conjunction with the accompanying drawings which illustrate, by way of example, the features of the invention.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a bottom plan view of a gripping sock embodied in the present invention;

FIG. 2 is a left hand side view thereof;

FIG. 3 is a top plan view thereof;

FIG. 4 is a partial vertical sectional view, in a large scale, taken along the line 4-4 of FIG. 1;

US 7,346,935 B1

3

FIG. 5 is a right side view, in reduced scale, of the high friction sock of FIG. 1 on a wearer's foot;

FIG. 6 is a partial top plan view taken along the line 6-6 of FIG. 5; and

FIG. 7 is a detail view, in a large scale, taken from the circle 7 in FIG. 5.

FIG. 8 is a bottom view of an embodiment of the gripping sock with at least 500 high friction buttons.

DETAILED DESCRIPTION OF THE INVENTION

Referring to FIGS. 1, 4 and 7, the gripping sock of the present invention includes, generally, a knit tube 21 in the shape of a sock, an ankle portion 23 foot portion 25 and sole 27. The sole includes heel and ball and sections 31 and 33 toe sections formed by the bottom walls of respective tubes 34, 35, 36, 37, 38 and 39 adhered to the underside of the sole portion is an array of high friction small diameter buttons 37 spaced throughout and located under at least the heel ball and toe portions of the sock.

Socks and particularly golf socks and the like are available in a relatively thin gauged material and are typically woven such that the sock material will stretch to fit over feet of various different sizes and shapes. In my invention, I prefer a relatively thin gauged weave, seamless weave, preferably about 30 gauge, to enhance the tactile characteristics thereof in use. The heddle may be about 130 (60x2) and the thread 30S single cotton. 30S single cotton is a specific example of a more general class of materials comprised of natural fibers. A sock is typically formed with a band around the ankle area and with a cup shape in the area of the heel section 31. In a typical sock for adult use, the sock, in its unstretched condition, may have a sole width of about 3½" inches and be about 6" inches long. I prefer to have a fairly dense concentration of high friction buttons 37 disposed about the entire sole area and particularly in the heel ball and toe section. I have found that by applying a generally uniform concentration of small diameter buttons about the sole area I can be assured that the working foot area of the athlete in contact with the underlying floor surface will always have several buttons in contact with the floor surface to maintain a high friction resistance to unwanted slippage. In my preferred embodiment, I array the buttons in a diagonal, spaced apart rows underneath the sole and arranged in checker board fashion so as to also form approximately 27 to 29 longitudinal columns spaced laterally apart and about 33 lateral rows spaced longitudinally apart. I array about 13 to 15 buttons in the section underneath the big toe and about 8 to 9 under the second toe, 7 to 9 under the third toe, about 7 on the fourth toe and about 5 under the little toe.

Underneath the ball, arch and heel I prefer at least 500 buttons (see FIG. 8), 900 preferably and for high energy activities about 950 buttons so that the small diameter buttons will add only minimum bulk to the body of the sock and present little resistance to foot articulation, while assuring that a plurality of buttons are always in contact with the underlying surface to thus maintain a firm grip to prevent accidental slippage.

In my preferred embodiment, I provide buttons which actually are more like dots and having a horizontal cross section of about ⅛" of an inch, a height of about ¼" of an inch and a pattern spacing buttons uniformly apart ⅜" of an inch center to center. The button are preferably manufactured of rubberized material having substantial flexibility and are either flat on the bottom or formed with upwardly

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concave dimples to act as mini-suction cups when pressed against smooth polished floor. The sock body may be woven in a conventional manner and the button adhered thereto by a high temperature and moisture resistant adhesive.

With this construction I have discovered that the participant can easily slide the gripping sock onto his or her foot and to present a feel not unlike that of a bare foot thus affording maximum flexibility, maneuverability and gripping action. The placement of the wearer's toes within the toe tubes 34, 35, 36, 38 and 39 positions the toes for ready splaying during various floor maneuvers such that the toes can be bent in the metatarsal area as shown in FIG. 5 to spread out as shown in FIG. 6 to thus provide a high degree of maneuverability and flexibility giving the athlete a sense of freedom and security as is so important for pilates. As the exercise is undertaken and forces applied through the foot to the underlying floor, the composite array of buttons in, for instance, the ball and toe area will provide total support for the wearer's weight and will resist slippage as shown in FIG. 7 thereby maintaining a firm grip on the floor surface and resisting unwanted sliding during the floor maneuver.

My invention has proven particularly popular amongst pilates enthusiasts. In this regard, the socks are relatively compact to pack in the wearer's tote kit and, when the exercises are to be commenced, the wearer's street shoes may be removed and the thin woven sock will readily stretch approximately 10% to slide over the wearer's foot and up over the ankle with the toes being received in the toe tubes 34, 35, 36, 38 & 39 as shown in FIGS. 5 and 6. Then, as the wearer manipulates through various maneuvers, whether with the weight primary on the heel, on the ball, foot or up on the toes a firm reliable grip will be maintained with the floor surface. That is, the multiple friction buttons under the ball of the foot and toe as the wearer rises up on the ball of the foot and toes as shown in FIG. 5, the toes are free to splay apart and, on the order of 44 to 45 buttons under the toes and an additional 4 to 5 rows of buttons under the ball of the foot will be in contact with the floor to thus create a substantial cumulative area of frictional contact to provide a stable and reliable support platform under the foot to thereby generate confidence in the mind of the wearer. The buttons, being dimpled upwardly in the center of the bottom surfaces, tend to assume an individual large area foot prints to afford a high degree of frictional contact and acting somewhat as small suction cups.

As the wearer moves about the floor and assumes different positions thus maneuvering the foot about from front to back and side to side, her or she can expect a high number of buttons to maintain favorable contact with the floor surface to thus afford a grip which will minimize slippage irrespective of the particular degree to which the foot is articulated medially, laterally, forward or back.

From the foregoing, it will be apparent that the high grip foot sock of the present invention provides an economical and highly reliable sock which is comfortable to wear, reliable and which will enhance the tactical feel one desires to achieve in high skill active floor exercises.

I claim:

1. A high friction grip sock comprising:

an elastic, stretchable knit material forming tubular ankle and foot portions, the foot portion including a sole portion defining toe, ball and heel sections;

the foot portion formed at its forward extremity with five forwardly projecting seamless, stretchable toe tubes to be stretched and received over the respective toes of a wearer;

US 7,346,935 B1

5

an array of high friction buttons spaced uniformly about and adhered to at least the bottom of the toe, ball and heel sections and having respective horizontal cross sections of about an $\frac{1}{8}^{th}$ of an inch; and

the knit material is comprised of about 30 gauge thread and the material comprises a blend of a natural fiber and an elastic material.

2. The high friction grip sock of claim 1 wherein:

the buttons are spaced apart by about a $\frac{3}{8}^{th}$ of an inch.

3. The high friction grip sock of claim 1 wherein:

the knit material is constructed with a heddle of about 130 (60×2).

4. The high friction grip sock of claim 1 wherein:

the knit material is constructed to have a stretch of about 10%.

5. The high friction grip sock of claim 1 that includes: at least 500 high friction buttons.

6. The high friction grip sock of claim 1 wherein:

the high friction buttons have a horizontal dimension of at least an $\frac{1}{8}^{th}$ of an inch.

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7. The high friction grip sock of claim 1 wherein:

the high friction buttons have a circular horizontal cross section with a diameter of about an $\frac{1}{8}^{th}$ of an inch.

8. A high friction sock comprising:

an elastic, seamless, knit material comprised of about 30 gauge thread, and a heddle of about 130 with at least 10% stretch and configured to form an ankle and foot portions, the foot portion including bottom wall defining a ball and heel sole sections and the foot portion further including five forwardly disposed seamless toe tubes, the respective bottom walls of the toe tubes defining toe sock section;

an array of high friction buttons having a horizontal cross sectional dimension of about an $\frac{1}{8}^{th}$ inch and a height of about a $\frac{1}{16}^{th}$ and spaced uniformly throughout and adhered to at least the sole section;

the knit material comprises a blend of a natural fiber and an elastic material.

* * * * *

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

ToeSox, Inc.

(b) County of Residence of First Listed Plaintiff San Diego, CA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

The Law Office of Manuel de la Cerra; 6885 Catamaran Drive;
Carlsbad, CA 92011; 760-809-5520

DEFENDANTS

Body Up Fitness, LLC

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

'11CV2437 JAH NLS**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
FEDERAL TAX SUITS <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609				

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):

~~35 USC Sec. 1 et. seq.~~ 35:271

Brief description of cause:

Patent Infringement of USP 7,346,935

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMANDS

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10/19/2011

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____